

## **REMARKS**

Applicants respectfully request reconsideration of this application as amended. Claims 1, 3, 6, 7, 10-13, 16, 17, 20, 21, and 23-30 have been amended. No claims have been cancelled, or added. Therefore, claims 1-30 are present for examination.

The amendments made to claims 3, 7, 10-12, 16, 20, 23, 25-27, 29, and 30 by this Response are not being made for the purpose of patentably distinguishing the claimed invention over the prior art. None of the amendments made in this Response add new subject matter, and all of the amendments made in this Response are fully supported by the originally filed application.

## **Objections**

The Examiner has raised a formal objection to claim 6. Applicants have amended claim 6 as requested by the Examiner. Consequently Applicants respectfully request that the Examiner withdraw her objection to claim 6.

## **35 U.S.C. §102 Rejection**

*Averbuch et al.*

The Examiner has rejected claims 1, 2, 6, 9, 10, 12, 13, 17, 18, 21, 24, 25, 28 and 29 under 35 U.S.C. § 102(b) as being anticipated by Averbuch et al., U.S. Patent No. 5,901,142 (“Averbuch”).

Applicants respectfully submit that amended claims 1, 2, 6, 9, 10, 12, 13, 17, 18, 21, 24, 25, 28 and 29 are patentable over Averbuch. For example, Averbuch does not disclose or suggest the utilization of “a paging functionality to notify [a] client that the client has data” that is “in response to detecting data for the client”, as is required in, for example, claim 1, as amended. Each of the other currently pending independent claims recite limitations that are similar to these limitations of claim 1, although some differences may exist among the limitations of the other pending independent claims. These similar limitations nevertheless patentably distinguish the claims over Averbuch.

For example, Averbuch discloses a packet data router that receives a data packet intended for a communication unit and processes a transport protocol layer of the packet. The packet data router determines whether the communication unit is presently involved in a packet data communication session. If it is, the packet data router provides the first data packet directly to the communication unit. If it is not, the packet data router instructs the system controller to page the communication unit. (See Averbuch, Abstract.) In Averbuch, therefore, a communication unit is not paged “in response to detecting data for the client”, as is required in, for example, amended claim 1.

Thus, it is respectfully submitted that the Examiner’s rejection of amended claims 1, 2, 6, 9, 10, 12, 13, 17, 18, 21, 24, 25, 28 and 29 is not warranted, and should be withdrawn.

## **35 U.S.C. §103 Rejection**

*Averbuch in view of Johansson*

Pursuant to MPEP §2143:

"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

The Examiner has rejected claims 3-5, 7, 8, 11, 14-16, 19, 20, 22, 23, 26, 27 and 30 under 35 U.S.C. § 103(a) as being unpatentable over Averbuch in view of Johansson, WO 01/28168 ("Johansson").

Applicants respectfully submit that amended claims 3-5, 7, 8, 11, 14-16, 19, 20, 22, 23, 26, 27 and 30 are patentable over Averbuch in view of Johansson. Neither Averbuch, nor Johansson, nor their combination, discloses, teaches, or suggests the utilization of "a paging functionality to notify [a] client that the client has data" that is "in response to detecting data for the client", as is required in, for

example, amended claim 1. Therefore, the combination of Averbuch and Johansson does not result in the Applicants' invention as recited in claims 3-5, 7, 8, 11, 14-16, 19, 20, 22, 23, 26, 27 and 30.

Furthermore, neither Averbuch, nor Johansson, nor their combination, provide motivation to one of ordinary skill in the art to modify their teachings so as to produce Applicants' claimed invention. For example, Averbuch teaches a method for providing packet data communications to a communication unit, whereby a packet data router can determine "whether the communication unit is already involved in a packet data communication session and, thereby, locatable for direct transmission of the received packet without the need to page". (See Averbuch, column 4, lines 5-8, emphasis added.) Averbuch, therefore, *teaches away* from paging "in response to detecting data for the client", as is required in, for example, amended claim 1.

Johansson is directed to solving a different problem from that solved by Applicants' claimed invention (see e.g., Johansson, page 1, lines 2-5 and page 3, lines 26-30). There is no teaching or suggestion in Johansson regarding how to overcome the contraindication taught in Averbuch so as to suggest, in combination with Averbuch, Applicants' claimed invention.

In summary, neither Averbuch nor Johansson, nor their combination, teaches or suggests the claimed invention. Thus, it is respectfully submitted that the Examiner has failed to establish *prima facie* that claims 3-5, 7, 8, 11, 14-16, 19, 20, 22, 23, 26, 27 and 30, as amended, are obvious in view of the combination of

Averbuch and Johansson. Accordingly, Applicants respectfully request that the Examiner's rejection of these claims under 35 U.S.C. §103 as obvious in view of Averbuch and Johansson be withdrawn.

### **Conclusion**

Applicants respectfully submit that the claims as amended are in condition for allowance. Therefore, allowance at an early date is earnestly solicited.

### **Invitation for a Telephone Interview**

The Examiner is invited to initiate an interview with the undersigned by calling 949-498-0601 if the Examiner believes that such an interview will advance prosecution of this application.

### **Request for an Extension of Time**

Applicants respectfully petition for a 2-month extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a). Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

**Charge our Deposit Account**

Please charge any shortage to our Deposit Account No. 50-0221.

Respectfully submitted,



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Libby H. Hope, Patent Attorney  
Reg. No. 46,774  
Patent Practice Group  
INTEL CORPORATION

c/o Blakely, Sokoloff, Taylor & Zafman  
12400 Wilshire Boulevard  
7<sup>th</sup> Floor  
Los Angeles, California 90025-1030  
(949) 498-0601